GOVERNMENT OF INDIA
COMMERCE AND INDUSTRY
LOK SABHA

STARRED QUESTION NO:270
ANSWERED ON:23.07.2004
PATENTING OF ANCIENT HERITAGE IN FOREIGN COUNTRIES
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Will the Minister of COMMERCE AND INDUSTRY be pleased to state:

(a) Whether the Government is aware that the ancient heritage of India has been patented in foreign countries;

(b) if so, the details of the our heritage items and traditional items having been patented in foreign countries;

(c) the steps taken/being taken by the Government to check the patentisation of ancient heritage of our country by the foreign countries; and

(d) the precautions taken in this regard ?

Answer

THE MINISTER OF COMMERCE AND INDUSTRY (SHRI KAMAL NATH)

(a): Patents are granted under the sovereign prerogative of countries according to their respective patent laws, and are effective only in the country of grant. In order to qualify for grant of patent an invention, whether process or product, has to meet the criteria of patentability, namely, novelty, inventiveness and industrial applicability. Indian goods and items, which are already in public domain, cannot be patented. Data on goods and items patented worldwide is not maintained.

(b) to (d): A statement is laid on the Table of the House

STATEMENT REFERRED TO IN REPLY TO PARTS (b) TO (d) OF LOK SABHA STARRED QUESTION NO. 270 FOR ANSWER ON 23.7.2004 REGARDING PATENTING OF ANCIENT HERITAGE IN FOREIGN COUNTRIES

(b) & (c): As patents are essentially private rights they are normally challenged in accordance with the patent laws of the country concerned, by the persons whose interests are affected or jeopardized. As and when information is received about patents being obtained on certain items which are not considered patentable, and which affect Indian interests, steps are taken to assess whether the grant of such patent can be challenged under the patent laws of the country concerned. Earlier a patent granted in the United States of America on the use of turmeric in wound healing was successfully challenged and was also cancelled by the Patent Office of the country concerned. Similarly, a patent on the fungicidal property of neem, granted in Europe, was successfully challenged. The claims of the patent on Basmati Ricelines and grains granted in the United States of America which had the potential of affecting India`s commercial interest were also challenged. The said claims were subsequently cancelled by the United States Patent and Trademark Office and the title of the patent was also amended.

(d) In order to protect traditional knowledge from being patented, provisions have been incorporated in the Indian Patent law through the Patents (Amendment) Act, 2002, to include anticipation of invention by available local knowledge, including oral knowledge, as one of the grounds for opposition as also for revocation of patent. An invention which, in effect, is traditional knowledge or which is an aggregation or duplication of known properties of traditionally known component or components has also been made non-patentable. Apart from these, Government is also developing a digital database of traditional knowledge in the field of medicinal plants in order to prevent patents being granted incorrectly on such knowledge.